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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/508,028 | 10/30/2000 | Graham M. Chapman | PET 43 US | 7881 |

7590 01/30/2002

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|--------------------|
| EXAMINER |
| NGUYEN, KIMBERLY T |

| | |
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| ART UNIT | PAPER NUMBER |
| 1774 | |

DATE MAILED: 01/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/508,028 | CHAPMAN ET AL. |
| Examiner | Art Unit | |
| Kimberly T. Nguyen | 1774 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "sufficient" in claim 1 is a relative term which renders the claim indefinite. The term "sufficient" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Poirier, U.S. Pat. No. 5,194,324.

Thermoplastic polymer
Poirier shows a high gloss label face stock comprising a core layer, a first (outer) and a second (first) skin layer which are coextruded (Abstract and column 2, lines 31-33). Poirier shows that surface of the second skin layer is adhesive and therefore, provides cling at the surface of the face stock (Abstract). Poirier shows that both sides of the film is corona

discharge-treated to 38 dynes/cm or greater and that the first skin comprises high density polyethylene (column 4, lines 3-24). Poirier shows that product identifying indicia (i.e. paint) can be printed on the surface of the label stock (column 1, lines 16-20). Poirier also shows that the core layer comprises isotactic polypropylene (polyolefin) (column 2, lines 48-51) and is a white, opaque color (column 2, lines 7-11). Poirier also shows that the skin layers contain inorganic particles (particulate filler) (column 2, lines 39-47).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poirier, U.S. Pat. No. 5,194,324 in view of Arvedson et al., U.S. Pat. No. 5,173,343.

Poirier is relied upon as above for claim 1.

Poirier does not show that the core layer comprises linear low density polyethylene or linear low density polyethylene as in instant claims 8 and 9. Arvedson teaches a stretch/cling film comprising a cling layer (outer layer) of ethylene acrylate or ethylenevinyl acetate (column 2, lines 26-40), a structural (core) layer of linear low density polyethylene (column 4, lines 35-43), and a non-cling (inner) layer of high density polyethylene (column 4, lines 9-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a linear low density polyethylene for the core layer of Poirier since it is known that such a polyolefin has desirous strength and optical properties for use in stretch or cling films.

Claims 1, 4, and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poirier, U.S. Pat. No. 5,194,324 in view of Arvedson et al., U.S. Pat. No. 5,173,343 in further view of Ramsey et al., U.S. Pat. No. 5,840,430.

Poirier is relied upon as above for claim 1.

Poirier does not show the thicknesses as in instant claim 9. However, "thickness" of a layer is a property which can be easily determined by one of ordinary skill in the art. With regard to the limitation of the "thickness", absent a showing of unexpected results, it is obvious to modify the conditions of a composition because they are merely the result of routine experimentation. The experimental modification of prior art in order to optimize operating conditions (e.g. thickness) fails to render claims patentable in the absence of unexpected results.

Poirier does not show that the second skin (inner) layer comprises high density polyethylene as in instant claims 4 and 9. Ramsey shows a stretch cling film comprising a low density polyethylene core layer (column 6, lines 46-57), an obverse (inner) layer of high density polyethylene, and a reverse (outer) layer of linear ethylene polymers (column 6, lines 12-57). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an inner layer of high density polyethylene because it provides stretched and unstretched cling properties suitable for use in a masking film.

Poirier does not show that the core layer comprises a linear low density polyethylene or low density polyethylene as in instant claims 8 and 9. Ramsey shows a stretch cling film comprising a linear low- or low density polyethylene core layer (column 6, lines 46-57), an obverse (inner) layer of high density polyethylene, and a reverse (outer) layer of linear ethylene polymers (column 6, lines 12-57). It would have been obvious to one of ordinary skill in the art

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at the time the invention was made to use linear low density polyethylene or low density polyethylene as a core layer in a cling film due to its known film strength properties.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Nguyen whose telephone number is (703) 308-8176. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly can be reached on (703) 308-0449. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for before final communications and (703) 872-9311 for after final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Kimberly Nguyen
Examiner
Art Unit 1774

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

